

AMENDMENTS TO THE CLAIMS:

The listing of claims will replace all prior versions, and listings, of claims in the application:

LISTING OF CLAIMS:

1. (Currently Amended) An apparatus for forming a lumen from within an hollow body organ, comprising:

a tissue positioning device having a first opening in a first surface region for ~~releasably-adhering~~ drawing a first area fold of tissue therein and a second opening in a second surface region for ~~releasably-adhering~~ drawing a second area fold of tissue therein ~~thereto~~, the first and second surfaces oriented toward each other, and wherein the openings being are separated by a septum;

at least one fastener housed within the device, the first opening disposed between the septum and the fastener; and

wherein the septum ~~being removable from~~ is connected to the tissue positioned device while slidable in the distal to proximal direction between the first and second openings to allow the at least one fastener to be deployed such that the first area fold of tissue is secured to the second area fold of tissue via the fastener.

2. (Original) The apparatus of claim 1 wherein the tissue positioning device defines a slot within which the septum is positionable.

Claims 3-4 (Canceled)

5. (Currently Amended) The apparatus of claim 1 wherein the first ~~area~~ fold of tissue and the second ~~area~~ fold of tissue are adhered to the tissue positioning device via a vacuum created in the first ~~region~~ opening and the second ~~region~~ opening.

6. (Currently Amended) The apparatus of claim 5 wherein the first ~~region~~ opening and the second ~~region~~ opening are in fluid communication with a common channel defined within the tissue positioning device.

7. (Original) The apparatus of claim 6 wherein the common channel is separated via the septum.

8. (Original) The apparatus of claim 1 further comprising a plurality of additional fasteners housed within the device.

9. (Original) The apparatus of claim 1 wherein the fastener comprises a staple.

10. (Currently Amended) The apparatus of claim 1 wherein the septum is longitudinally ~~positioned~~ actuated in the tissue positioning device from a handle of the apparatus.

11. (Original) The apparatus of claim 10 wherein the septum defines at least one surface adapted to abrade adjacent tissue.

12. (Original) The apparatus of claim 11 wherein the septum is adapted to abrade using a method selected from the group consisting of cutting, scoring, heating, freezing, and chemical ablation.

Claims 13-42 (Canceled)